IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.5771 OF 2005

Shri.Gaurang Vinodrai Doshi ...Applicant

V/s.

Neera Ashok Jain & Anr. ...Respondents

None for the Applicant.
Mr.P.A. Pol, APP for the State.
Mr.Subodh Desai for Respondent No.1.

CORAM : V.M. KANADE, J.

DATED : 4th SEPTEMBER, 2007.

P.C:-

1. Applicant is challenging the order passed by the Magistrate who was pleased to issue process on a complaint filed by the Respondent No.1 U/s.138 of N.I.Act. Against said order, an application was preferred by him for recalling of process which was issued by the Magistrate. Said application was dismissed. Against said order, revision application was filed in the Sessions Court which was also dismissed. Against aforesaid orders, present criminal application has been filed.

2. Learned counsel for the Respondent No.1 submitted that the

application for recall of process itself was not maintainable in view of judgment of Apex Court in the case of **Adalat Prasad V/s. Rooplal Jindal & Ors. reported in 2004(4) Mh.L.J. 274**. He submitted that, therefore, Sessions Court had correctly dismissed the criminal revision application.

3. In my view, submissions made by the Respondent No.1 have to be accepted since the application for recall of process itself was not maintainable. Subsequent proceeding challenging order rejecting application for recall is also not maintainable. Criminal application is dismissed and disposed of accordingly. Interim relief is vacated. The Trial Court to decide the case as expeditiously as possible.

V.M. KANADE, J.